

MINUTES
**Commission for Mental Health, Developmental Disabilities and
Substance Abuse Services**
Joint Meeting with the Task Force on Housing
Holiday Inn Crabtree (4100 Glenwood Avenue)
Raleigh, North Carolina

Tuesday, May 11, 2004

Attending:

Commission Members Present:

Pender McElroy, Chairman, Lois Batton, Patricia Chamings, Laura Coker, Dorothy Crawford, Pearl Finch, Albert Fisher, George Jones, Mary Kelly, Martha Macon, Martha Martinat, Floyd McCullouch, Tom Ryba, Don Stedman, Fredrica Stell, Ann Suggs, Marvin Swartz, Lou Grubb Adkins, Ann Forbes, Ellen Holliman, Mazie Fleetwood, Paul Gulley

Commission Members Absent:

Judy Lewis, (excused), Emily Moore (excused), Raymond Reddrick (unexcused), Bernard Sullivan (unexcused), Anna Scheyett (excused), William Sims (unexcused)

DMH/DD/SAS Staff Present:

Mike Moseley, Division Director
Don Willis, Chief, Administrative Support Section
Peggy Balak, Division Affairs Team Leader
Susan Collins, Division Affairs Team
Cindy Kornegay, Division Affairs Team

Others Present:

John Womble (DMH/DD/SAS), Leza Wainwright (DMH/DD/SAS), Stan Slawinski (DMH/DD/SAS), Flo Stein (DMH/DD/SAS), Kent Earnhardt (Council on Developmental Disabilities/PAIMI), Jeff McCloud (GACPD Board), Cynthia Temoshenko (GACPD), Chris Phillips (DMH/DD/SAS), Bert Bennett (DMH/DD/SAS), Charles Franklin, (Albemarle MHC), Bob Hedrick (NC Community Support Providers Council) Jean Overstreet (NC Council on MH/DD/SA Community Programs), Carol Clayton (NC Council on MH/DD/SA Community Programs), Christine Trottier (Carolina Legal Assistance), Julia Bick (DHHS), Stephen Haebig (Club Nova/Consumer), Diane Pomper (AG's Office), Joe Donovan (NAMI), David Swann (Crossroads), Representative Hugh Holliman, Kim Schmidt (NC MHCO), Mike Vicario (NC Hospital Association), Dave Richard (The ARC), Senator John Kerr, Lorin Mueller (NC Coalition of Police), Eldon Presnell (Greensboro Police), Bill Dowse (Task Force on Housing), Olson Huff (TFH), David Thomas (TFH), Linda Staunch (TFH), Ben Matthews (TFH), Connie Parker (TFH), John Crawford (Macon County), Sam Stell (Columbus County)

Called To Order

Chairman Pender McElroy called the meeting to order at 9:35 a.m. The Commission members, the staff and guests, made introductions.

Approval of Minutes

Mazie Fleetwood requested her name be added as present at the April 14, 2004 Commission Meeting. A recommendation was made to remove Mansfield Elmore's name. Fredrica Stell made a motion to approve the Minutes as corrected. The motion was seconded and passed unanimously.

Chairman's Report

Mr. McElroy will send letter concerning donations collected by Martha Martinat to the Alcohol Council's fund in memory of Tony Mulvihill.

Mr. McElroy presented the letter from the Governor's Advocacy Council for Persons with Disabilities asking the Commission to adopt rules concerning a formal complaint and appeals process for clients in the MH/DD/SA system. With consent from the Commission members the Chairman requested the Attorney General's office provide a written opinion to the Commission as to the authority of the Commission to adopt rules regarding appeals. Diane Pomper, with the Attorney General's office, agreed to provide such an opinion. Ms. Pomper will have a response by the August meeting or before. Mr. McElroy will furnish Ms. Pomper additional information in writing regarding the Commission's questions if necessary.

Rules Committee Report – Dog Handler Rules

Floyd McCullough, Chair of the Rules Committee, gave the report of the Rules Committee. The Committee considered proposed rule language concerning drug detection dogs and dog handlers. The proposed changes are a result of legislation passed during the last session, Session Law 2003-398. The legislation authorizes the Commission to adopt rules relating to the acquisition, possession and security of controlled substance by persons registered under the provisions of G.S. 90-102.1. The legislation also authorizes the Department of Health and Human Services to adopt rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1.

A number of individuals representing law enforcement spoke to the Committee about their concerns with the legislation. Several of the law enforcement representatives stated they are not supportive of the concept of non-law enforcement dog handlers. Other concerns included chain of custody issues with drugs found and whether district attorneys would prosecute these cases.

The Rules Committee moved that the full Commission approve publication of the proposed rule language to initiate the public comment period.

Mr. McElroy asked for discussion.

Mr. Eldon Presnell, Greensboro Police Department was introduced to present the law enforcement's issues with adopting rules to permit dog handlers to be in the business other than as an agent of law enforcement. He expressed the need to set more stringent criteria for private individuals if the rules move forward.

The Commission requested staff to work with those persons involved with concerns about these rules during that time and make changes as necessary.

Commission members discussed the possibility of seeking a change in law. Any attempt to repeal the statute would have to come from representatives of law enforcement. Lorin Mueller, Coalition of Police announced they are trying to repeal the law and asked each member to contact their legislators.

Upon a call of the question, the motion passed unanimously.

Mr. McCullough continued his report of the Rules Committee with an update on proposing rules for faith based providers. He asked Flo Stein, DMH/DD/SAS to explain the current situation to Commission members. Ms. Stein informed the members that there is no longer a need to pursue the creation of rules specifically around faith-based providers. These providers are already licensed and new federal legislation clarifies that faith-based providers must abide by state rules that apply to other providers of the same services.

Martha Martinat informed the Commission of the Rules Committee's recommendation to appoint a law enforcement agent to the Commission. A recommendation was made to request a nomination from the Attorney General for that position as required by the statute. Mr. McElroy agreed to write a letter requesting that appointment.

General Comments

Dorothy Crawford urged the Commission and staff to visit the new Balsam Crisis Center in Haywood County Unit during the trip to Asheville in August, as it is about 30 miles from where the Commission will meet. Mr. McElroy said staff would try to arrange a visit but if that was not possible he suggested providing a map so members could visit as they wish. Don Willis informed the members that the Center is conveniently located and hopes to fit the visit into the schedule.

Director's Report

Mike Moseley told the members that these are exciting times in the transition to the new system. He has spent the last six weeks with people from all levels of the system, both internal to the Division and its stakeholders.

Mr. Mosely provided an update on legislative activities. The Governor's budget proposal includes an increase of \$8.5 million in overall MH/DD/SAS funding with only a \$199,000 reduction in contracts. He encouraged members to talk with their legislators about the MH funding for community services.

Status of Reform

Leza Wainwright, Deputy Director, provided an update on reform issues (attachment). She discussed:

- The approval process for the new service definitions. The change in service definitions is a Medicaid medical policy decision and must go through the Physicians Advisory Group (PAG) before submission to Centers for Medicaid and Medicare Services. The PAG process was put in place in lieu of APA rulemaking. There is a move in the Legislature to repeal this forcing medical policy changes to go through

the lengthy APA process. She encouraged the members to talk with their legislators about this issue.

- Reform is predicated on a strong public policy role for the LME. To do this, the LME must have authority over the funds disseminated to providers. There has been continued discussion about whether providers will enroll directly with Medicaid or enroll through the LME. CMS has indicated that each provider must have a direct contract with the Medicaid agency. Discussion with DMA will continue to work out the procedures for enrollment, billing and authorization.
- There is continuing work on the projected rates for the new services. The new services will not be implemented until July 1, 2005. It is anticipated that final rates for services billable July 1, 2004 should be released in the next several weeks.
- Ms. Wainwright reviewed the status of LME funding. The Division staff has met with all the LMEs except one. By June 1, 2004, final allocation letters should be issued. There will still be some changes in the smaller area programs.
- There are currently 34 local programs, down from 39 prior to reform. As a result of the LME funding letters, several programs are considering merger:
- (1) Riverstone, Edgecombe-Nash and Wilson-Greene have been discussing merger for sometime.
- (2) The Board of County Commissioners in Lee and Harnett counties have decided not to pursue LME status and may look to join with other LMEs either together or separately. Neither has shown an interest in joining with Cumberland. Sandhills was not interested in merging with Lee-Harnett as a unit. The Division has asked Sandhills to reconsider this position and will work with these entities to come to a positive resolution.
- (3) Roanoke-Chowan and Tideland are working on a process to join.
- (4) Carteret, currently a part of Neuse, was looking at the possibility of joining Onslow. It appears that they will now stay with Neuse at least until June 30, 2005.
- (5) Rockingham will become a service provider and create an alliance with Alamance-Caswell to provide the local management functions.
- The DHHS team is continuing its negotiations around the LME contract. The local business plan from each LME will serve as scope of work for each contract. Much of the content in the original scope of work as presented in the Draft document will be published separately as policy guidance. Each LME will be required to prepare a developmental plan to be effective July, 2005.

Don Willis informed the members the Draft State Plan 2004 would be on the web by May 20, 2004. The comment period is 30 days.

After lunch, Mr. McCullough introduced Senator John Kerr, of Goldsboro, to speak briefly. Senator Kerr told the Commission that he is on their side and would do anything he can to help with our service system for people with disabilities in our State. He informed the members that he does not support cutting any more taxes.

Task Force on Housing Report

Mr. McElroy thanked the Task Force on Housing members and Don Stedman for the work done by the Task Force.

Don Stedman presented the Draft Task Force on Housing Report to the Commission. He introduced the Task Force on Housing Members. He recognized staff who worked with the Housing Task Force.

Dr Stedman explained that Section 7, Recommendations, is the meat of the Draft Report. A final report will be compiled incorporating the changes made from the Task Force on Housing meeting this morning. He asked the Commission to accept the draft as submitted today and place a time on the August agenda to discuss the recommendations and Commission actions. He also suggested that a small committee be formed to put together an implementation document to include a schedule for completion of tasks, cost estimates and benchmarks for evaluating progress on the recommendations. This group should be composed of a couple of members of the Commission and a couple of members of the Task Force with continued staff support.

Mr. McElroy received the recommendations from the Task Force as a motion and asked for discussion. There was a recommendation specific to Section 7, II.1. to involve Rehabilitation. Mr. Stedman agreed that is a critical piece of the report.

Martha Martinat expressed appreciation for the work of Don Stedman and the Task Force members for this excellent report. She asked if there recommendations for any immediate help, steps, etc. Mr. Stedman said there are immediate steps taking place but funding is an issue.

Mr. McElroy called the question on the motion by Dr. Stedman to accept the report and place a discussion of the final recommendations on the agenda in August. The motion passed unanimously.

Don Stedman will be collecting comments to the report and will make appropriate revisions for the August Commission meeting.

Public Comments

Consumer Steve Haiberg made brief comments about the current state of community capacity.

Jeff McLoud from Kinston, GACPD Board member, spoke on how to build community resources and the importance and asked Mike Moseley to look back at a proposal made during the initial product development phase of the reform.

Christine Trottier of Carolina Legal Assistance, presented a letter sent to Mr. McElroy asking the Commission to adopt rules regarding appeals process. Mr. McElroy informed her of the request to the Attorney General on the Commission's statutory authority to make rules in this area. Ms. Trottier asked for an opportunity to respond to the Attorney General's opinion. Mr. McElroy requested that Ms. Pomper send Ms. Trottier a copy of the opinion also.

Kent Earnhardt of GACPD commented on the housing report.

Cynthia Temoshenko, GACPD staff, distributed a letter from Allison Bowen, the Interim Director of the GACPD, supporting the establishment of a broader complaint and appeals system.

New Business

Jean Overstreet distributed the 2004 Directories published by the Council on Community MH/DD/SA Programs to Commission members.

Orientation manuals were available for those who did not get one at the last meeting.

Mr. McElroy reminded everyone that the August meeting will be held in Asheville and at the Holiday Inn North in Raleigh in November.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 3:30 p.m.

Minutes prepared by Peggy Balak.